

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

ROBERT. MILLER, #866293

§

VS.

§

CIVIL ACTION NO. 6:19cv491

JOHN McDANIEL, ET. AL.

§

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Robert Miller, an inmate currently confined at the Hodge Unit within the Texas Department of Criminal Justice (TDCJ) proceeding *pro se* and seeking to proceed *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. The case was referred to the United States Magistrate Judge, the Honorable Judge John D. Love, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On October 24, 2019, Judge Love issued a Report (Docket No. 5) recommending that Plaintiff's motion to proceed *in forma pauperis* (Docket No. 2) be denied because Plaintiff has accrued at least three strikes prior to the filing of this 2019 lawsuit and Plaintiff failed to demonstrate imminent danger. Moreover, Judge Love recommended that Plaintiff's civil rights lawsuit be dismissed with prejudice as to the refiling of another *in forma pauperis* lawsuit raising these same claims—but without prejudice to the refiling without seeking *in forma pauperis* status.

A copy of this Report was sent to Plaintiff at his address, return receipt requested. The docket demonstrates that Plaintiff received a copy of the Report on October 29, 2019 (Docket No. 6). However, to date, no objections to the Report have been filed.

Consequently, because no objections to Judge Love's Report have been filed, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).


The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (Where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

**ORDERED** that the Report of the United States Magistrate Judge (Docket No. 5) is **ADOPTED** as the opinion of the Court. Further, it is

**ORDERED** that Plaintiff's civil rights lawsuit is **DISMISSED** with prejudice as to refiling of another *in forma pauperis* lawsuit raising these claims—but without prejudice as to the refiling of his lawsuit without seeking *in forma pauperis* status. Finally, it is

**ORDERED** that any and all motions which may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **25th** day of **November, 2019**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE